



IN THE  
SUPREME COURT OF THE UNITED STATES

NO. 78-6153

FRANCIS RICK FERRI

Petitioner

- vs -

DOMINICK ROSETTI, ESQUIRE

Respondant

PETITION FOR WRIT OF CERTIORARI TO  
THE SUPREME COURT OF PENNSYLVANIA  
FOR THE COMMONWEALTH OF PENNSYLVANIA

REPLY BRIEF OF THE PETITIONER

By,

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P.O. Box 1000  
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Petitioner Pro se

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IN THE  
SUPREME COURT OF THE UNITED STATES

FRANCIS RICK FERRI, :  
Petitioner :  
- vs - : Docket Number 78-6153  
:   
DOMINICK ROSSETTI, ESQUIRE, :  
Respondant :  
\_\_\_\_\_ :

PETITIONER'S REPLY BRIEF

Pursuant to Rule 24(4), Rules Of The Supreme Court Of The United States, the petitioner respectfully files this Reply Brief to perfect the record and to correct the misrepresentations cited by the respondant in his brief in opposition.

BACKGROUND

On or about February 1, 1979, the petitioner filed with this Court, at docket number 78-6153, a petition for writ of certiorari accurately reflecting the history in this matter presenting the following question for review:

"WHETHER A LAWYER APPOINTED TO REPRESENT THE PETITIONER, UNDER THE CRIMINAL JUSTICE ACT, 18 U.S.C. § 3006A, IN A GRAND JURY INVESTIGATION IS IMMUNE FROM TORT LIABILITY AT THE SUIT OF HIS FORMER CLIENT FOR THE ADMITTED LOSS OF THAT CLIENT'S FILES ONE YEAR AFTER THE ATTORNEY-CLIENT RELATIONSHIP HAD BEEN TERMINATED ?"

In the interim this Court granted certiorari in the sister case, Francis Rick Ferri v Daniel Ackerman, Esquire, Docket No. 78-5981, on February 20, 1979, to review the decision of the Pennsylvania Supreme Court in Ferri v Ackerman, 394 A. 2d 553 (1978).

Petitioner had previously moved the Court to consolidate the petitions for writ of certiorari, since both petitions are directed at the identical threshold issue, i.e. the boundries of absolute and qualified immunity afforded assigned defense counsel in a criminal prosecution from the suit of his former client.

CORRECTIONS

The respondant's brief contends that the loss of petitioner's file "had nothing to do with the charges for which the petitioner was ultimately convicted" (Resp. Br. page 1). Attached please find appendix pages 10 thru 18, which are excerpts from the criminal trial in United States Of America v Francis Rick Ferri, Cr. No. 74-277, U.S.D.C. for Western, Pa. attorney Dominick Rossetti testifying, the respondant herein.

Petitioner would call to this Court's attention appendix pages 12, 13, 14 and 17, where Mr. Rossetti admits that "the case on which you were representing him, was that the same case, the same charge that he is facing today, that is the indictment arising out of the bombing of Mr. Dunn's automobile in 1971?" (A.p. 12). "That was one of the matters....." (A.p. 13).

Additionally, the respondent's brief contends that a file of the petitioner's "which the respondent supposedly lost" (Resp. Br. page 2). If the Court would please note at appendix pages 17 and 18, where Mr. Rossetti admits that he has "not been able to locate any memorandum (A.p. 17).....Not being able to locate this memorandum....." (A.p. 18).

The attached appendix should quash any doubt that the respondent lost the petitioner's property, i.e. the file, which pertained to the charges he was then facing.

No contention is made in this Court, nor was same raised in the appellate courts below, that the petitioner was granted <sup>1/</sup>immunity. The sole issue presented to this Court was the question of liability upon the respondent for the loss of the petitioner's property.

<sup>1/</sup> After the completion of respondent's testimony the trial court ruled on the evidence presented that immunity had not been granted. Thus the significance of value placed upon the lost files, which should this matter be resolved in favor of the petitioner would be a question for a jury to decide.

CONCLUSION

Wherefore your humble petitioner respectfully prays this most Honorable Of Courts grant him the following relief:

- a) grant his petition for writ of certiorari and to consolidate this grant of certiorari with the sister case, Ferri v Ackerman, Docket Number 78-5981, or,
- b) to remand this case back to the Supreme Court Of Pennsylvania for further considerations as the Court may recomend.

Respectfully submitted,

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